

IN THE NORTH CAROLINA GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

\*\*\*\*\*

TRANSCRIPT, Volume I of I

Tuesday, August 14, 2018

\*\*\*\*\*

August 13, 2018, Criminal Docket Management Session

The Honorable Douglas B. Sasser, Judge Presiding

## Transcript of Plea

## APPEARANCES:

Cathi Radford, ADA  
110 Courthouse Square  
Whiteville, NC 28472  
On behalf of the State

Harold G. Pope, Attorney at Law  
WRIGHT, WORLEY, POPE, EKSTER & MOSS, PLLC  
706 N. Madison Street  
Whiteville, NC 28472  
On behalf of the Defendant

Karen J. Turnage, RPR  
Official Court Reporter - District 13A Resident  
Post Office Box 277  
Dunn, NC 28335

	<u>I</u> <u>N</u> <u>D</u> <u>E</u> <u>X</u>	<u>Page</u>
1		
2		
3	Transcript of plea.....	3
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

KAREN J. TURNAGE, RPR  
Official Court Reporter  
District 13A Resident

10:27:04 1 MS. RADFORD: Judge, line 2, this is Chauncy  
10:27:06 2 Askew, 17 CrS 52984.

10:27:10 3 Mr. Pope, how is your client pleading to one count  
10:27:14 4 of felony breaking and entering of a motor vehicle?

10:27:17 5 MR. POPE: He pleads to that one count pursuant to  
10:27:19 6 this transcript of plea, Your Honor.

10:27:20 7 If I may approach the bench, I'll hand that up.

10:27:24 8 THE COURT: Yes, sir.

10:27:24 9 (Mr. Pope approached bench)

10:27:24 10 THE COURT: Mr. Askew, stand up; place your left  
10:27:24 11 hand on the Bible, raise your right as best you can.

10:27:35 12 (Whereupon, the defendant was first duly sworn.)

10:27:45 13 THE COURT: I'm going to ask you a series of  
10:27:47 14 questions. A lot of those will be "yes" or "no" answers.  
10:27:49 15 Don't just nod your head. She has to record all your  
10:27:52 16 answers; so, again, make sure you speak up loud; all right?

10:27:55 17 THE DEFENDANT: Yes, sir. Yes, sir.

10:27:55 18 THE COURT: Sir, you are Chauncy Askew?

10:27:56 19 THE DEFENDANT: Yes, sir.

10:27:57 20 THE COURT: Mr. Askew, do you understand you have  
10:27:59 21 the right to remain silent and that any statement you make  
10:28:01 22 may be used against you?

10:28:02 23 THE DEFENDANT: Yes, sir.

10:28:03 24 THE COURT: At what grade level can you read and  
10:28:04 25 write?

10:28:05 1                   THE DEFENDANT: Eighth.

10:28:05 2                   THE COURT: Are you now under the influence of

10:28:07 3                   alcohol, drugs, narcotics, medicines, pills, or any other

10:28:11 4                   such substance?

10:28:12 5                   THE DEFENDANT: No, sir.

10:28:13 6                   THE COURT: And when was the last time you used or

10:28:15 7                   consumed any such substance?

10:28:18 8                   THE DEFENDANT: A while ago.

10:28:20 9                   THE COURT: You don't take any type of medication?

10:28:22 10                  THE DEFENDANT: No, sir.

10:28:23 11                  THE COURT: And do you feel like your mind is

10:28:25 12                  clear, and do you understand what you're doing here in court

10:28:27 13                  today?

10:28:28 14                  THE DEFENDANT: Yes, sir.

10:28:28 15                  THE COURT: Has Mr. Pope explained the charges to

10:28:30 16                  you?

10:28:30 17                  THE DEFENDANT: Yes, sir.

10:28:31 18                  THE COURT: Do you understand the nature of the

10:28:32 19                  charges?

10:28:32 20                  THE DEFENDANT: Yes, sir.

10:28:33 21                  THE COURT: And do you understand what the State

10:28:34 22                  would have to prove for you to be found guilty of the

10:28:37 23                  charges?

10:28:37 24                  THE DEFENDANT: Yes, sir.

10:28:38 25                  THE COURT: Have you and Mr. Pope discussed

10:28:39 1 possible defenses, if any, to the charges?

10:28:42 2 THE DEFENDANT: Yes, sir.

10:28:42 3 THE COURT: And are you satisfied with your  
10:28:44 4 lawyer's legal services?

10:28:44 5 THE DEFENDANT: Yes, sir.

10:28:45 6 THE COURT: Do you understand you have the right  
10:28:47 7 to plead not guilty and be tried by a jury?

10:28:49 8 THE DEFENDANT: Yes, sir.

10:28:49 9 THE COURT: Do you understand at a trial you have  
10:28:51 10 the right to confront and to cross-examine the witnesses  
10:28:53 11 against you?

10:28:54 12 THE DEFENDANT: Yes, sir.

10:28:54 13 THE COURT: And also to present witnesses and  
10:28:56 14 evidence on your own behalf?

10:28:58 15 THE DEFENDANT: Yes, sir.

10:28:59 16 THE COURT: And you realize by entering this plea  
10:29:01 17 you give up these and other valuable constitutional rights  
10:29:04 18 in regards to a jury trial?

10:29:06 19 THE DEFENDANT: Yes, sir.

10:29:06 20 THE COURT: Now, do you understand upon your plea  
10:29:08 21 of guilty there will be limitations as to your right to  
10:29:10 22 appeal?

10:29:11 23 THE DEFENDANT: Yes, sir.

10:29:12 24 THE COURT: And if there's any DNA or biological  
10:29:15 25 evidence associated with your case, that your plea may limit

10:29:18 1 how long that evidence will be preserved?

10:29:20 2 THE DEFENDANT: Yes, sir.

10:29:21 3 THE COURT: Under this plea agreement, do you  
10:29:22 4 understand you're pleading guilty, pursuant to *Alford*, to  
10:29:24 5 the felony of breaking or entering a motor vehicle?

10:29:27 6 THE DEFENDANT: Yes, sir.

10:29:28 7 THE COURT: Do you understand that charge carries  
10:29:29 8 a maximum possible sentence of 24 months in prison?

10:29:32 9 THE DEFENDANT: Yes, sir.

10:29:32 10 THE COURT: Do you understand that based upon your  
10:29:34 11 prior record level, your actual exposure is somewhat less  
10:29:37 12 than that?

10:29:38 13 THE DEFENDANT: Yes, sir.

10:29:38 14 THE COURT: And do you now personally plead guilty  
10:29:40 15 to that charge?

10:29:41 16 THE DEFENDANT: Yes, sir.

10:29:41 17 THE COURT: Do you consider it to be in your best  
10:29:43 18 interest to plead guilty to that charge?

10:29:45 19 THE DEFENDANT: Yes, sir.

10:29:45 20 THE COURT: And do you understand, upon your  
10:29:46 21 *Alford* guilty plea, you'll be treated as being guilty  
10:29:49 22 whether or not you admit that you're in fact guilty?

10:29:51 23 THE DEFENDANT: Yes, sir.

10:29:52 24 THE COURT: And the condition of the plea  
10:29:53 25 agreement is:

10:29:54 1 You plead guilty; you'll receive an active  
10:29:56 2 sentence.

10:29:57 3 And is that --

10:30:00 4 MS. RADFORD: It's a mitigated sentence, Judge.

10:30:02 5 THE COURT: It is mitigated?

10:30:02 6 MS. RADFORD: It is.

10:30:02 7 THE COURT: All right. Mitigated sentence of 4  
10:30:04 8 months minimum to 14 months maximum.

10:30:06 9 What is the mitigating factor?

10:30:08 10 MS. RADFORD: No. 15.

10:30:09 11 THE COURT: Pardon?

10:30:11 12 MS. RADFORD: No. 15. When he was questioned  
10:30:12 13 early on by investigators from the Chadbourn Police  
10:30:14 14 Department, he was giving the information that they were  
10:30:17 15 asking for.

10:30:18 16 THE COURT: Actually, No. 11, I think.

10:30:20 17 MS. RADFORD: 11; I'm sorry.

10:30:22 18 THE COURT: And the State is going to dismiss  
10:30:24 19 several other pending charges against you, and you'll  
10:30:26 20 receive credit for time already served awaiting hearing.  
10:30:29 21 And the sentence is 4 months minimum to 14 months maximum.  
10:30:32 22 Do you understand that?

10:30:33 23 THE DEFENDANT: Yes, sir.

10:30:34 24 THE COURT: Is that correct as being all the terms  
10:30:35 25 and conditions of your plea agreement?

10:30:36 1                   THE DEFENDANT: Yes, sir.

10:30:36 2                   THE COURT: And do you now personally accept those

10:30:38 3                   terms and conditions?

10:30:39 4                   THE DEFENDANT: Yes, sir.

10:30:40 5                   THE COURT: Other than those terms and conditions,

10:30:41 6                   has anyone made any promises or threatened you in any way to

10:30:44 7                   cause you to enter this plea against your wishes?

10:30:46 8                   THE DEFENDANT: No, sir.

10:30:47 9                   THE COURT: Do you enter the plea of your own free

10:30:48 10                  will, fully understanding what you're doing?

10:30:50 11                  THE DEFENDANT: Yes, sir.

10:30:50 12                  THE COURT: Do you agree there's facts to support

10:30:52 13                  your plea?

10:30:53 14                  THE DEFENDANT: Yes, sir.

10:30:54 15                  THE COURT: And consent to the State summarizing

10:30:55 16                  the evidence in regards to a factual basis?

10:30:57 17                  THE DEFENDANT: Yes, sir.

10:30:58 18                  THE COURT: Prior Record Level, I mentioned Record

10:30:59 19                  Level II. Several prior convictions. You've had a chance

10:31:03 20                  to see those?

10:31:04 21                  THE DEFENDANT: Yes, sir.

10:31:04 22                  THE COURT: Do you acknowledge that those

10:31:05 23                  convictions are in fact your convictions?

10:31:07 24                  THE DEFENDANT: Yes, sir.

10:31:09 25                  THE COURT: And I've been asking questions from a

10:31:11 1      plea form. Have you and Mr. Pope gone over that form  
10:31:14 2      together?

10:31:15 3      THE DEFENDANT: Yes, sir.

10:31:15 4      THE COURT: Have you read all the questions?

10:31:17 5      THE DEFENDANT: Yes, sir.

10:31:17 6      THE COURT: And have you seen all the answers that  
10:31:19 7      are filled in?

10:31:20 8      THE DEFENDANT: Yes, sir.

10:31:20 9      THE COURT: And are those answers all true and  
10:31:21 10      accurate, to the best of your knowledge?

10:31:23 11      THE DEFENDANT: Yes, sir.

10:31:23 12      THE COURT: And, Mr. Askew, is that your signature  
10:31:25 13      on the third page?

10:31:26 14      THE DEFENDANT: Yes, sir.

10:31:27 15      THE COURT: Do you have any questions about what  
10:31:28 16      I've said to you or about anything else connected with your  
10:31:31 17      case?

10:31:31 18      THE DEFENDANT: No, sir.

10:31:32 19      THE COURT: You may have a seat.

10:31:33 20      Factual basis from the State.

10:31:49 21      MS. RADFORD: Yes, sir.

10:31:49 22      Had this matter gone to trial, you would have  
10:31:51 23      heard evidence that on or about the dates listed in the  
10:31:54 24      indictment, which were October 12, 2017, through an  
10:31:58 25      investigation for the Chadbourn Police Department, here in

10:32:02 1 Columbus County, for some breaking and enterings in some  
10:32:07 2 vehicles that were being done around the area, that the  
10:32:10 3 defendant in this case unlawfully, willfully, and  
10:32:11 4 feloniously did break and enter a motor vehicle, which was a  
10:32:15 5 gray four-door Honda Accord, owned by Delbert Junior Kellan,  
10:32:18 6 which contained things of value, with the intent to take a  
10:32:23 7 larceny therein, and items were removed from the cars.

10:32:26 8 Judge, this was an investigation involving several  
10:32:29 9 people for the breaking and enterings into the vehicles  
10:32:32 10 around the Chadbourn area. Mr. Askew, along with several  
10:32:36 11 other individuals, were arrested and charged.

10:32:39 12 And that would have been the showing for the  
10:32:40 13 State.

10:32:42 14 THE COURT: Mr. Pope, anything regarding the  
10:32:44 15 factual basis?

10:32:45 16 MR. POPE: No, sir.

10:32:45 17 THE COURT: Mr. Askew, stand up, sir.

10:32:48 18 Mr. Askew, the Court finds there is a factual  
10:32:51 19 basis for the entry of your plea, that you're satisfied with  
10:32:54 20 your lawyer's legal services, and that you are competent to  
10:32:56 21 stand trial in this matter. The Court finds the State is  
10:32:59 22 not submitting any aggravating factors and is stipulating to  
10:33:03 23 a finding in mitigation that you assisted law enforcement at  
10:33:06 24 an early stage in the proceedings. The Court also finds the  
10:33:09 25 parties have stipulated that you are Record Level II for

10:33:11 1      felony sentencing purposes. The Court finds the plea is the  
10:33:14 2      informed choice of the defendant and is made freely,  
10:33:17 3      voluntarily, and understandingly. The defendant's plea is  
10:33:20 4      hereby accepted by the Court and is ordered recorded.

10:33:23 5                   Mr. Pope, anything regarding sentencing?

10:33:26 6                   MR. POPE: Just briefly, Your Honor.

10:33:27 7                   I went out last night and met with Mr. Askew  
10:33:30 8      again -- I've enjoyed talking to him; you know, I've seen a  
10:33:33 9      change in him since -- he's been in jail about 10 months --  
10:33:35 10     and went over the transcript again with him last night and  
10:33:38 11     again this morning.

10:33:39 12                   I can't tell him when he'll be released. He's  
10:33:42 13      pleading to 4 to 14 months. He's done about 10 months. I'm  
10:33:46 14      telling him he'll be home soon. I don't know whether  
10:33:48 15      they'll send him to DOC or not with just that little bit of  
10:33:53 16      time.

10:33:53 17                   THE COURT: I would anticipate probably get him  
10:33:57 18      done today, about Thursday ship everybody to Central Prison  
10:34:00 19      for processing; so probably a couple more days, go to  
10:34:03 20      Central, get processed, and then they can decide. I would  
10:34:08 21      think they're pretty quickly going to move him on to  
10:34:11 22      post-release supervision.

10:34:12 23                   MR. POPE: That's what I was telling him, it works  
10:34:14 24      pretty quick, but I can't tell him exactly when it will be.  
10:34:15 25      Of course, when I was assigned to the case, he was charged

10:34:18 1 with a kidnapping, a robbery with a dangerous weapon,  
10:34:20 2 serious charges.

10:34:21 3 To his credit, he, on his own, went downtown  
10:34:24 4 Chadbourn to the police department and met voluntarily with  
10:34:27 5 Detective Spivey at the time, and that's one of the reasons  
10:34:30 6 why I think we were able to work out this plea for him.

10:34:33 7 But I'm hoping he'll be home pretty soon, and I'm  
10:34:36 8 hoping this has gotten his attention.

10:34:39 9 THE COURT: Anything from the State regarding  
10:34:40 10 sentencing?

10:34:41 11 MS. RADFORD: No, Judge.

10:34:41 12 THE COURT: Mr. Pope, how much time in the case?

10:34:43 13 MR. POPE: I have 17 hours; that's \$1,275, Your  
10:34:46 14 Honor.

10:34:46 15 THE COURT: Acknowledge your lawyer has got at  
10:34:48 16 least 17 hours in your case, sir?

10:34:50 17 THE DEFENDANT: Yes, sir.

10:34:51 18 THE COURT: All right. In File No. 17 CrS 52984,  
10:34:58 19 the defendant having pled guilty, pursuant to *Alford*, to  
10:35:01 20 breaking or entering a motor vehicle, it's the order of the  
10:35:03 21 Court he's found guilty of that offense; Class I/Level II.  
10:35:06 22 The Court will find in mitigation that he's admitted  
10:35:12 23 responsibility to law enforcement at an early stage in the  
10:35:15 24 proceeding; will sentence from the mitigated range a minimum  
10:35:18 25 of 4 months/Corresponding maximum of 14 months in the

10:35:22 1 Department of Corrections.

10:35:22 2 Counsel, is he refusing probation?

10:35:33 3 THE DEFENDANT: Sir?

10:35:34 4 MR. POPE: Yes, sir. Well, let me --

10:35:36 5 THE COURT: Here's the situation. I think under

10:35:38 6 Class I/Level II, that's not an active block; so

10:35:42 7 technically, I can't send him to DOC.

10:35:45 8 However, I would have to put you on probation.

10:35:48 9 According to Mr. Pope, at this point you've already got

10:35:54 10 pretty much time credit served. Here's the difference.

10:35:58 11 I'm going to go ahead and make sure he's aware.

10:36:00 12 MR. POPE: Yes, sir.

10:36:00 13 THE COURT: If you told me you want probation,

10:36:03 14 you're going to walk out of jail today, but you're going to

10:36:06 15 be on probation for a period of time.

10:36:11 16 Let me ask this. Is the requirement -- that's a C

10:36:24 17 block. I think I can do unsupervised probation with it.

10:36:29 18 MS. RADFORD: I believe you could.

10:36:30 19 THE COURT: Would the State have any objection --

10:36:32 20 considering he's got 10 months in, would the State have any

10:36:35 21 objection if I -- instead of doing the active sentence, if I

10:36:39 22 gave a probationary sentence with unsupervised probation in

10:36:41 23 this matter?

10:36:42 24 MS. RADFORD: Judge, leave it in your discretion.

10:36:44 25 MR. POPE: He would appreciate that, Your Honor.

10:36:46 1                   THE COURT: Like I said, he admitted  
10:36:47 2 responsibility, and he's done 10 months, and hopefully he's  
10:36:50 3 learned something from this.

10:36:52 4                   If the State has no objection to it, then I will  
10:36:54 5 modify it a little bit.

10:36:55 6                   I'm going to put you on probation, on unsupervised  
10:36:58 7 probation in this matter; that gets you out of jail today.

10:37:01 8                   THE DEFENDANT: Yes, sir.

10:37:01 9                   THE COURT: Are you good with that?

10:37:03 10                  THE DEFENDANT: Yes, sir.

10:37:04 11                  MR. POPE: It's unsupervised; you don't have a  
10:37:06 12 probation officer. But you can't break the law. If you  
10:37:08 13 break the law, you're going to be right back in here again.

10:37:10 14                  THE DEFENDANT: Yes, sir.

10:37:10 15                  MR. POPE: Thank you very much, Your Honor.

10:37:11 16                  THE COURT: And I'm not going to see you anymore;  
10:37:12 17 right?

10:37:13 18                  THE DEFENDANT: No, sir. No, sir.

10:37:13 19                  THE COURT: Okay. So modification on that  
10:37:20 20 sentence, the Court finds in this matter, will sentence 4 to  
10:37:25 21 14 months; I will suspend that; 24 months unsupervised  
10:37:31 22 probation. The Court will enter the costs of court and  
10:37:36 23 attorney's fees as a civil judgment in this matter.

10:37:42 24                  And the attorney's fees, 17 hours, again?

10:37:46 25                  MR. POPE: Yes, sir; \$1,275.

10:37:48 1                   THE COURT: As a civil judgment.

10:37:50 2                   All right. Thank you, folks.

10:37:52 3                   MR. POPE: He wants you to know that he's trying

10:37:54 4                   to get in the Job Corps. He was being housed in Brunswick

10:37:57 5                   County Jail, and they gave him an application. I told him I

10:38:01 6                   didn't know what the Court could do about that, but it's

10:38:04 7                   something he wanted you to know about.

10:38:06 8                   THE COURT: Well, good. I wish him luck.

10:38:08 9                   MR. POPE: Thank you very much, Your Honor.

10:38:08 10                   (Whereupon, the proceedings concluded at

10:38:08 11                   10:38 A.M.)

10:38:08 12

10:38:08 13

10:38:08 14

10:38:08 15

10:38:08 16

10:38:08 17

10:38:08 18

10:38:08 19

10:38:08 20

10:38:08 21

10:38:08 22

10:38:08 23

10:38:08 24

10:38:08 25

COURT REPORTER'S CERTIFICATE

I, Karen J. Turnage, RPR, certify that I recorded by stenotype the transcript of proceedings in captioned cause, taken in the General Court of Justice, Superior Court Division, Columbus County, Whiteville, North Carolina, at the August 13, 2018, Criminal Docket Management Session, before the Honorable Douglas B. Sasser, Judge Presiding.

I further certify that to the best of my knowledge and belief, the foregoing transcript constitutes a true and correct transcript of the said proceedings.

Given under my hand this 9th day of November,  
2018.

Karen J. Turnage

Karen J. Turnage, RPR  
District 13A Resident  
PO Box 277  
Dunn, NC 28335